

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEVI DALE LASTER, JR.

Petitioner,

v.

USA,

Respondent.

No. 2:25-CV-00440-DC-CSK (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
HABEAS PETITION

(Doc. No. 27)

Petitioner Levi Dale Laster, Jr. is a county jail pretrial detainee proceeding *pro se* and *in forma pauperis*, with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 20, 2025, the assigned magistrate judge issued findings and recommendations recommending Petitioner's third amended petition for writ of habeas corpus be dismissed without prejudice based on *Younger v. Harris*, 401 U.S. 37 (1971). (Doc. No. 27.) The findings and recommendations were served on Petitioner and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 4.)

On March 24, 2025, Petitioner filed objections to the pending findings and recommendations. (Doc. No. 29.) Petitioner filed supplemental briefing in support of his petition and a motion to be released into the President's custody. (Doc. Nos. 28, 30–31.) In his objections,

1 Petitioner does not respond to the magistrate's judge's recommendation that this case should be
2 dismissed based on *Younger* abstention. (Doc. No. 29.) Instead, Petitioner asks the court to
3 intervene in his pending state court criminal case. (*Id.*) Accordingly, the court finds Petitioner's
4 objections and additional filings provide no basis upon which to reject the pending findings and
5 recommendations.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, including Petitioner's
8 objections, the court concludes that the findings and recommendations are supported by the
9 record and by proper analysis.

10 Having concluded that the pending petition must be dismissed, the court also declines to
11 issue a certificate of appealability. A petitioner seeking a writ of habeas corpus has no absolute
12 right to appeal; he may appeal only in limited circumstances. See 28 U.S.C. § 2253; *Miller-El v.*
13 *Cockrell*, 537 U.S. 322, 335–36 (2003). If a court denies a petitioner's petition, the court may
14 only issue a certificate of appealability when a petitioner makes a substantial showing of the
15 denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Where, as here, the court denies habeas
16 relief on procedural grounds without reaching the underlying constitutional claims, the court
17 should issue a certificate of appealability "if jurists of reason would find it debatable whether the
18 petition states a valid claim of the denial of a constitutional right and that jurists of reason would
19 find it debatable whether the district court was correct in its procedural ruling." *Slack v.*
20 *McDaniel*, 529 U.S. 473, 484 (2000). In the present case, the court finds that reasonable jurists
21 would not find the court's determination that the pending petition must be dismissed to be
22 debatable or wrong. Thus, the court declines to issue a certificate of appealability.

23 Accordingly,

- 24 1. The findings and recommendations issued on March 20, 2025 (Doc. No. 27) are
25 ADOPTED in full;
- 26 2. The third amended petition for writ of habeas corpus (Doc. No. 25) is dismissed
27 without prejudice;
- 28 3. The court declines to issue a certificate of appealability;

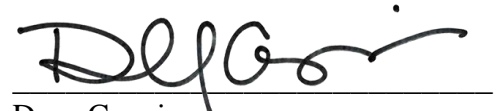
1 4. Petitioner's motion for release into the President's custody (Doc. No. 28) is

2 DENIED as moot; and

3 5. The Clerk of the Court is directed to close this case.

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5
6 IT IS SO ORDERED.

7 Dated: **April 10, 2025**


Dena Coggins
United States District Judge